

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ENTERTAINMENT BY J & J, INC.

Plaintiff,

v.

**BRIDGES CAFE
CORPORATE DEFENDANT
d/b/a BRIDGES CAFE**

and

KEVIN KONIECZNY

Defendants.

Civil Action No. 02-03006(JF)

**ANSWER ON BEHALF OF DEFENDANTS, BRIDGES CAFE
and KEVIN KONIECZNY**

Defendants, Defendants, BRIDGES CAFE aDefendants, BRIDGES CAFE and KEVIDefenda
attorney, Jonathan J. Sobel, file this Answer to Plaintiff's Complaint and avers as follows:

JURISDICTION

1. Admitted upon information and belief.
2. Admitted upon information and belief.
3. Admitted upon information and belief.

PARTIES

4.4. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations.

5. Denied. By way of further response, Defendant denies that Plaintiff is authorized to transact business as "Bridges Cafe". Instead, Bridges Cafe is authorized to transact business as "Bridges Cafe", which is owned by Defendant, Kevin Konieczny as of the location of Bridges Cafe is 5136 Torresdale Avenue, Philadelphia, PA 19124.

6. Admitted.

PRELIMINARY BACKGROUND

7.7. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations.

8.8. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations.

9.9. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations. Further, this averment contains conclusion(s) of law to which no response is required. Further, this averment contains no facts and no evidence. Proofs will be demanded at the time of trial.

10.10. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations.

11.11. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations.

12.12. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations.

13.13. Neither admitted nor denied. By way of further information, Plaintiff has provided without sufficient information to either admit or deny the allegations.

14. Denied. Denied. Denied. By way of further response, tDenied. By way of further
 averment averment is a conclusion of law to which no answer is required. By way of further answer, after
 reasonablereasonable investigation, thereasonable investigation, the Defendant lacks sufficient knowledge or info
 asas to the truth of the averments set forth and, accordingly, thas to the truth of the averments set forth and
 proof thereof, if material, is demanded at the trial of this cause.

15. Denied. Denied. By way Denied. By way of further response, the Denied. By way of further answer, after a reasonable investigation, the Defendant lacks sufficient knowledge as to the truth of the averments set forth and, accordingly, the said averments are not proven by the evidence and proof thereof, if material, is demanded at the trial of this cause.

16. Denied. Denied. By way of further answer, after reasonable investigation, the Defendant lacks sufficient knowledge as to the truth of the averments set forth and, accordingly, the said averment is denied. Stas to proof thereof, if material, is demanded at the trial of this cause.

17.17. Neither admitted norNeither admitted nor denied. By way of furtherNeither admitted nor
withoutwithout sufficient information to either admit orwithout sufficient information to either admit or deny th

18. Denied. Denied. By way of further Denied. By way of further response, the averment is a conclusion of law to which no answer is required. By way of further answer, after reasonable investigation, the Defendant lacks reasonable investigation, the Defendant lacks sufficient knowledge as to the truth of the averments as to the truth of the averments set forth and, accordingly, proof thereof, if material, is demanded at the trial of this cause.

19. 19. Neither admitted nor denied.19. Neither admitted nor denied. By way of further re
withoutwithout sufficient information to eitherwithout sufficient information to either admit or deny the allegat

COUNT I

VIOLATION OF 47 U.S.C. § 605

20. Defendants' Defendants' hereby incorporate the allegations contained in Defendants' he through 19 of Defendants' Answer to Plaintiff's Complaint.

21. Denied.Denied. By wDenied. By way of further response, the allegations set for avermentaverment is a conclusion of law to which no answer is required. By way of further answer, after reasonablereasonable investigation, the Defendant lacksreasonable investigation, the Defendant lacks sufficient k as to the truth of the averments set forth and, accordingly, the saidas to the truth of the averments set for proof thereof, if material, is demanded at the trial of this cause.

22. DeniedDenied.Denied. By way of furDenied. By way of further response, the a avermentaverment is a conclusion of law to which no answer is required. By way of further answer, after reasonablereasonable investigation, the Defendant lacks sufficient knowledgereasonable investigation, the Defen as as to the truth of the averments set forth and, accordingly, the said averment is deas to the truth of the proofproof thereof, if material, is demanded at the trial of this cause. Iproof thereof, if material, is deman committed any wrongful actions.

23. Denied.Denied. By way of further response, the allegDenied. By way of further avermentaverment is a conclusion of law to which no answer is required. By way of further answer, after reasonablereasonable investigation, the Defendant lacks sufficient knowledgereasonable investigation, the Defen as as to the truth of tas to the truth of the averments set forth and, accordingly, the said averment is den proof thereof, if material, is demanded at the trial of this cause.

24. DenDenied.Denied. By way of further response, the allegations setDenied. By w avermentaverment is a conclusion of law to which no answer is required. By way of further answer, after reasonablereasonable investigation, thereasonable investigation, the Defendant lacks sufficient knowledge or info as to the truth of tas to the truth of the averments seas to the truth of the averments set forth and, accordi proofproof thereof, if material, is demanded at the trial of this cauproof thereof, if material, is demanded entitledentitled to recoverentitled to recover damages from Defendants. Further, it is deniedentitled to recover statutes and/or interfered with Plaintiff's Proprietary rights.

25. Denied.Denied. By Denied. By way of furtDenied. By way of further response, De

information to either admit or deny the allegations contained in this averment. Further information set forth in this averment is a conclusion of law to which no answer is required. By way of further answer, after reasonable investigation, the Defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments set forth and, accordingly, the said averment is denied. Strict proof thereof, if material, is demanded at the trial of this cause.

26. Denied. By way of further response, the allegations set forth in this averment is a conclusion of law to which no answer is required. By way of further answer, after reasonable investigation, the Defendant lacks sufficient knowledge or information as to the truth of the averments set forth and, accordingly, the said averment is denied. Strict proof thereof, if material, is demanded at the trial of this cause. It is denied that Defendants' committed any wrongful actions.

COUNT II

VIOLATION OF 47 U.S.C. § 553

27. Defendants' hereby incorporate by reference the allegations set forth in paragraphs 1 through 26 of Defendants' Answer to Plaintiff's Complaint.

28. Denied. By way of further response, the allegations set forth in this averment is a conclusion of law to which no answer is required. By way of further answer, after reasonable investigation, the Defendant lacks sufficient knowledge or information as to the truth of the averments set forth and, accordingly, the said averment is denied. Strict proof thereof, if material, is demanded at the trial of this cause.

29. Denied. By way of further response, the allegations set forth in this averment is a conclusion of law to which no answer is required. By way of further answer, after reasonable investigation, the Defendant lacks sufficient knowledge or information as to the truth of the averments set forth and, accordingly, the said averment is denied. Strict proof thereof, if material, is demanded at the trial of this cause. It is denied that Defendants'

illegally and without authorization intercepted, received or otherwise assisted in the unauthorized interception or receipt of the event.

30. Denied. Denied. By way of further response, the a
 averment is a conclusion of law to which no answer is required. By way of further answer, after
 reasonable investigation, the Defendant lacks sufficient k
 as to the truth of the averments set forth and, accordingly, the said as to the truth of the averments set for
 proof thereof, if material, is demanded at the trial of proof thereof, if material, is demanded at the trial of th
 any illegal decoding device, any illegal decoding device, removing the decoder / converter box or by

31. Denied. Denied. By way of further response, Denied. By way of further response
 averment is a conclusion of law to which no answer is required. By way of further answer, after
 reasonable investigation, the Defendant lacks sufficient k
 as to as to the truth of the averments set forth and, accordingly, the said averment is denieas to the truth o
 proof thereof, if material, is demanded at the trial of proof thereof, if material, is demanded at the trial o
 statutes or act willfully or for the purpose of commercial advantage or private financial gain.

32. Denied. Denied. Denied. By way of further response, t Denied. By way of further
 averment is a conclusion of law to which no answer is required. By way of further answer, after
 reasonable investigation, the Defendant lacks sufficient k
 as to thas to the truth of the as to the truth of the averments set forth and, accordingly, the said averment
 proof thereof, if material, is demanded at the trial of this cause.

33. Denied. Denied. By way Denied. By way of further respo Denied. By way of f
 averment is a conclusion of law to which no answer is required. By way of further answer, after
 reasonable investigation, the Defendant lacks sufficient knowledgereasonable investigation, the Defen
 as to the truth of the as to the truth of the averments set fas to the truth of the averments set forth and, ac
 proof thereof, if material, is demanded at the trial of this cause. It is denied that Defendaproof thereo
 injured Plaintiff in any manner, whatsoever.

34. Denied. Denied. By way of Denied. By way of further response, the allegations

averment is a conclusion of law to which no answer is required. By way of further answer, after reasonable investigation, the Defendant lacks sufficient knowledge or information as to the truth of the averments set forth and, accordingly, as to the truth of the averments set forth and, a proof thereof, if material, is demanded at the trial of this cause. It is denied that Defendants' have ever or never or now are continuing to receive, intercept, transmit and exhibit Plaintiff's programming illegally. Defendants' did not intercept, receive or publicly display on any occasion.

35. Denied. By way of further response, the alleged averment is a conclusion of law to which no answer is required. By way of further answer, after reasonable investigation, the Defendant lacks sufficient knowledge or information as to the truth of the averments set forth and, accordingly, the said averment is as to the truth of the averment proof thereof, if material, is demanded at the trial of this cause.

WHEREFORE, Defendants, BRIDGES CAFE and KEVIN KONIECZNY, respectfully requests this Honorable Court dismiss Plaintiff's Complaint, with judgment should be entered in favor of answering Defendants and imposing attorney's fees, costs and any other appropriate relief this Honorable Court deems necessary.

GALERMAN, TABAKIN & SOBEL,

BY: _____
JONATHAN J. SOBEL, ESQUIRE
Attorney for Defendants

AFFIRMATIVE DEFENSES

AFFIRMATIVE DEFENSE ONE

The Plaintiff's Complaint fails to state a cause of action.

AFFIRMATIVE DEFENSE TWO

Plaintiff's claims are barred by the Statute of Limitations and/or Laches.

AFFIRMATIVE DEFENSE THREE

Plaintiff's claims are barred because of an express or implied contract and/or Release.

AFFIRMATIVE DEFENSE FOUR

Plaintiff's claims are barred because of statutory and/or common law.

AFFIRMATIVE DEFENSE FIVE

Plaintiff's claims are barred due to improper service of process.

AFFIRMATIVE DEFENSE SIX.

Plaintiff's claims are barred based upon the doctrine of consent.

AFFIRMATIVE DEFENSE SEVEN

Plaintiff's claims are barred because they lack standing to sue under Plaintiff's Complaint.

AFFIRMATIVE DEFENSE EIGHTH

Section 605 does not reach Defendant's Conduct

AFFIRMATIVE DEFENSE NINTH

Section 605 is only applicable to satellite transmissions insofar as they are actual airborne transmissions.

AFFIRMATIVE DEFENSE TENTH

Plaintiff's Complaint lacks specificity as to how the close circuit broadcast is distributed or whether Defendants' publish cable programming or from satellite television.

AFFIRMATIVE DEFENSE ELEVENTH

Cable television descrambler does not facilitate interception

AFFIRMATIVE DEFENSE TWELFTH

_____. Statutory damages are not available under section 605.

AFFIRMATIVE DEFENSE THIRTEENTH

Plaintiff seeks a duplication of damages under sections 553 and 605.

WHEREFORE,, Defendants, BRIDGES , Defendants, BRIDGES CA, Defendants, BL
respectfullyrespectfully requests this Honorable Court dismiss Plaintiff's Complaint, withrespectfully requests t
judgment should be entered in favor of answering Defendants.

GALERMAN, TABAKIN & SOBEL,

BY:

JONATHAN J. SOBEL, ESQUIRE
Attorney for Defendants

IDENTIFICATION NO.: 76428
1420 Walnut Street, Suite 1420
Philadelphia, PA 19102
(215) 717-1100
(215) 717-1420
Attorneys for Defendants

DATE: November 27, 2002

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ENTERTAINMENT BY J & J, INC.

Plaintiff,

V.

**BRIDGES CAFE
CORPORATE DEFENDANT
d/b/a BRIDGES CAFE**

and

KEVIN KONIECZNY

Defendants.

Civil Action No. 02-03006(JF)

VERIFICATION

JONATHAN J. SOBEL, ESQUIRE hereby state that JONATHAN J. SOBEL, ESQUIRE has taken the foregoing action and verifies that the statements made in the foregoing Answer are true and correct to the best of their knowledge, information and belief. The undersigned understand that the statements therein are made subject to the penalties of 18 Pa. C.S.A. § 9126(b)(5) and Rule 11 of the Federal Rules of Civil Procedure, pleadings, etc.

GALERMAN, TABAKIN & SOBEL,

BY: JONATHAN J. SOBEL, ESQUIRE

DATE: November 27, 2002

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ENTERTAINMENT BY J & J, INC.

Plaintiff,

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BRIDGES CAFE
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and

KEVIN KONIECZNY

Defendants.

Civil Action No. 02-03006(JF)

CERTIFICATE OF SERVICE

I, JONATHAN J. SOBEL, ESQUIRE, attorney for Defendants, hereby certify that I am duly authorized to make this certification; that on November 27, 2002, I did cause a true and correct copy of the foregoing *Defendants' Answer and Affirmative Defenses to Plaintiff's Complaint* to be mailed by United States regular mail, postage pre-paid, addressed as follows:

Ronald J. Harper, Esquire
HARPER & PAUL
140 West Malpewood Avenue
Philadelphia, PA 19144

GALERMAN, TABAKIN & SOBEL,

BY:

JONATHAN J. SOBEL,
Attorney for Defendant

Dated: November 27, 2002

November 27, 2002

Clerk's Office
United States District Court - Eastern District of PA
601 Market Street, Room 2609
Philadelphia, PA 19106

RE: Entertainment by J & J, Inc. v. Bridges Cafe
No.: 02-CV-3006(JF)

Dear Sir / Madam:

Enclosed please find an original and one copy of *Defendant's Answer and Affirmative Defenses to Plaintiff's Complaint*, in the above matter. Please file the original and return the copy in the enclosed self-addressed stamped envelope.

Should you have any questions, please do not hesitate to contact the undersigned.

Thank you for your anticipated cooperation.

Very truly yours,

JONATHAN J. SOBEL

JJS/cl
Enc.

cc: Ronald Harper, Esquire (*w/enc.*)

November 27, 2002

Honorable John Fullam, U.S.D.J.
United States District Court - Eastern District of PA
601 Market Street, Room 15614
Philadelphia, PA 19106

RE: Entertainment by J & J, Inc. v. Bridges Cafe
No.: 02-CV-3006(JF)

Dear Judge Fullam:

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Thank you for your anticipated cooperation.

Very truly yours,

JONATHAN J. SOBEL

JJS/cl
Enc.

cc: Ronald Harper, Esquire (w/enc.)